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UNEMPLOYMENT INSURANCE INFORMATION
FOR
FISHERMEN AND ALLIED WORKERS[1/]

# MIDDLE ATLANTIC STATES
# NEW YORK
# NEW JERSEY
# PENNSYLVANIA
# DELAWARE

## New York

Source: New York Unemployment Insurance Law (original act effective April 25, 1935; latest amendment effective June 4, 1945).

Fishermen and Allied Workers Covered.--These workers are covered under the New York Unemployment Insurance Law according to a statement of February 2, 1945, signed by the Executive Director, Division of Placement and Unemployment Insurance of the Department of Labor, which is quoted in part, as follows:

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Note: This information is a digest of Unemployment Insurance Laws (as of September 1, 1945) with specific application to fishermen and allied workers in the States of New York, New Jersey, Pennsylvania and Delaware. This presentation is necessarily not complete; it is an interpretation by the Fish and Wildlife Service of the existing laws, and is subject to correction by courts or administrative agencies.

1/ Compiled by the Economics and Cooperative Marketing Section, Division of Commercial Fisheries.

". . . . This means that fishermen and allied workers are included under the provisions of this law in the same manner as any other worker, provided they fall under the definition of 'employment', as set forth in such law. . . . We demand currently that the submission of reports and the payment of contributions in regard to the services of an employee 'performed on fishing vessels starting from and returning to a port within the State of New York without touching ports located in any other States or touching ports solely to dispose of catch or for emergency purposes.'"

In a statement of October 26, 1945, signed by the Executive Director, the following reference is made to the quoted statement of February 2, 1945:

"Services on fishing vessels not included in the above definition are covered under the New York State Unemployment Insurance Law pursuant to the 'Interstate Maritime Reciprocal Arrangement', if the employer maintains in the State of New York, the operating office from which the operations of the vessel are ordinarily and regularly supervised, managed and controlled. If this office is in New York, all services wherever performed, are covered under the New York State Unemployment Insurance Law."

Employment Not Covered.--Services of: (a) family services; (b) part-time services by a student.

Employers Covered.--Those having four or more employees in each of 15 or more days within any calendar year.

Eligibility of Employees

(1) Minimum amount of earnings necessary - 30 times minimum weekly benefit amount.

(2) Waiting period - a claimant must accumulate four effective days as a waiting period before he can receive benefit payments. "Effective day" is a full day of total unemployment within a week in which the claimant had four or more days of total unemployment. Only those days of total unemployment in excess of three days within such week are considered "effective days." No effective day may occur in a week in which the claimant has days of employment for which he is paid wages exceeding $24.

Four effective days correspond to one week of total unemployment. However, the four effective days required as a waiting period, need not be consecutive.

Payments

(1) Maximum and minimum weekly benefit payments - $21 is the maximum and $10 is the minimum weekly amount that an applicant may receive as unemployment benefits.

(2) Maximum number of weeks payable - 26 weeks.

Contributions

(1) Employers contribute 2.7% of wages paid (not in excess of $3,000) to each employee.

(2) Employees contribute no part of wages toward unemployment benefits.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Labor Dispute.--The accumulation of benefit rights by an applicant shall be suspended during a period of seven consecutive weeks beginning with the day after he lost his employment because of a strike, lockout, or other industrial controversy in the establishment in which he was employed. However, benefit rights may be accumulated before the expiration of such seven weeks beginning with the day after such strike, lockout, or other industrial controversy. In addition to the period of suspension, a waiting period must be served.

(2) Discharge for Misconduct.--The accumulation of benefit rights by an applicant shall be suspended during a period of seven consecutive weeks beginning with the day after he lost his employment through misconduct in connection with his employment. In addition to the period of suspension, a waiting period must be served.

(3) Leaving Work Voluntarily.--In the case of any applicant who leaves his employment voluntarily: (a) if such separation is under circumstances which show a bona fide withdrawal, temporary or permanent, from the labor market, such applicant shall be disqualified from receiving any benefits or from being credited with serving any part of the waiting period until certification of a bona fide return to the labor market by such applicant and his renewed availability for employment; (b) if such separation is for good cause, the benefit rights of such applicant shall be in no way affected thereby. In addition to other circumstances that may be found to constitute a good cause, voluntary leaving of employment shall not in itself disqualify an applicant if circumstances have developed in the course of such employment that would have justified the claimant in refusing such employment in the first instance. Such circumstances are set forth in (4) below. (c) if such separation was without good cause, no benefits shall be payable to such applicant, nor shall he be credited with serving any part of the waiting period until forty-two consecutive calendar days have elapsed after his registration for benefits subsequent to such voluntary leaving if there was no withdrawal from the labor market or until such forty-two days have elapsed after the certification of his bona fide return to the labor market and his availability for employment if there had been a withdrawal from the labor market.

(4) Refusal of Suitable Employment.--No benefits shall be payable to any applicant who without good cause refuses to accept an offer of employment for which he is reasonably fitted by training and experience, including employments not subject to this article. No refusal to accept employment shall be considered without good cause nor shall it disqualify any applicant otherwise eligible to receive benefits if: (a) acceptance of such employment would either require the applicant to join a company union or would interfere with his joining or retaining membership in any labor organization; (b) there is a strike, lockout, or other industrial controversy in the establishment in which the employment is offered; (c) the employment is at an unreasonable distance from his residence, or travel to and from the place of employment involves expense substantially greater than that required in his former employment unless the expense be provided for; (d) the wages or compensation, or hours, or conditions offered are substantially less favorable to the applicant than those prevailing for similar work in the locality, or are such as tend to depress wages or working conditions, provided, however, that no benefits shall be payable to an applicant who refuses to accept an offer of employment for which he is reasonably fitted by training and experience, whatever be the cause, if the circumstances show that such claimant has withdrawn temporarily or permanently from the labor market.

(5) False Statement.--An applicant who has wilfully made a false statement or representation to obtain any benefits under this law shall forfeit benefits for at least the first 20 but not more than the first 80 effective days following discovery of such offence for which he otherwise would have been entitled to receive benefits. Such penalty shall apply only once with respect to each such offence. An applicant shall refund all moneys received because of such false statement or representation made by him.

(6) Receipt of Other Compensation.--No days of total unemployment shall be deemed to occur in any week with respect to which or a part of which an applicant has received or is seeking unemployment benefits under an unemployment compensation law of any other State or of the United States. This provision shall not apply if the appropriate agency of such other State or of the United States finally determines that he is not entitled to such unemployment benefits.

Where to Apply for Benefits.--Claims for unemployment benefits must be filed with a field office of the Division of Placement and Unemployment Insurance in New York immediately upon becoming unemployed. These offices are listed in New York telephone directories under the heading "Unemployment Insurance." Every post office has also listings of these offices.

NEW JERSEY

Source: New Jersey Unemployment Compensation Law (original act effective December 22, 1936; latest amendment effective May 7, 1945).

Fishermen and Allied Workers Covered.--These workers are covered under the New Jersey Unemployment Compensation Law, according to a statement issued February 13, 1945, by the Acting Executive Director, State of New Jersey Unemployment Compensation Commission which is quoted, in part, as follows:

"You are advised that our Supreme Court, in Shore Fishery, Inc., v. Board of Review of the N.J.U.C.C., in 127 N.J.L. 87, 21 At. (2nd) 634, has held that shore and pound fishermen are covered by our act. The same court spoke in Weber v. U.C.C. of N.J., 130 N.J.L. 328, 32 At. (2nd) 602, to the same effect. This decision was carried to our Court of Errors and Appeals the highest court in this State, and the decision was affirmed in 131 N.J.L. 225, 35 At. (2nd) 880.

"The only maritime employment at present excepted is services performed as an officer or member of a crew of a vessel on the navigable waters of the United States. We construe the officers and the crew to be those individuals engaged in the operation, navigation, and preservation of the vessel, as distinguished from other services."

By an amendment approved, April 2, 1945, the exception covering "Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States" was eliminated from the New Jersey Unemployment Law, but this elimination will not be effective until January 1, 1946.

Employment Not Covered.--Services of: (a) family services; (b) services performed as part-time work by a minor whose principal occupation during the school year is as a student actually attending a public or private school; (c) officer or member of the crew of a vessel on the navigable waters of the United States. Effective January 1, 1946, however, service under (c) will be covered.

Employers Covered.--Those having four or more employees in any 20 weeks during the current or preceding calendar year, effective January 1, 1946. Until that date, eight or more employees necessary in any 20 weeks.

Eligibility of Employees

(1) Minimum amount of earnings necessary in base year - $150.
(2) Waiting period - an applicant must wait one week of total or partial unemployment before receiving unemployment benefits.

Payments

(1) Maximum and minimum weekly benefit payments - $22 is the maximum amount that the applicant may receive weekly and $9 is the minimum weekly amount that the applicant may receive as unemployment benefits less wages, if any, in excess of $3.

(2) Number of weeks payable - 26 times his weekly benefit rate or one-third of his total wages in first four of last five calendar quarters, whichever is the lesser amount.

Contributions

(1) Employers contribute 0.9% to 3.6% of wages payable (not in excess of $3,000) to each employee. Rates are adjusted according to records of employment experience.

(2) Employees contribute 1% of wages earned up to $3,000 annually.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Leaving Work Voluntarily.--For the week in which he has left work voluntarily without good cause and for the three weeks which immediately follow such week (in addition to the waiting period), as determined in each case.

(2) Discharge for Misconduct.--For the week in which he has been discharged for misconduct connected with his work, and for the three weeks which immediately follow such week (in addition to the waiting period), as determined in each case.

(3) Failure to Apply for or to Accept Available Suitable Work.--If it is found that he has failed, without good cause, either to apply for available suitable work when so directed by the employment office or the executive director, or to accept suitable work when offered him, or to return to his customary self-employment (if any) when so directed by the executive director. Such disqualification shall continue for the week in which such failure occurred and for the three weeks which immediately follow such week (in addition to the waiting period) as determined.

In determining whether or not any work is suitable for an individual, consideration shall be given to the following: (a) degree of risk involved to his health, safety, and morals; (b) physical fitness and prior training; (c) experience and prior earnings; (d) length of unemployment and prospects for securing local work in his customary occupation; (e) distance of the available work from his residence.

No work shall be deemed suitable and benefits shall not be denied to any otherwise eligible individual for refusing to accept new work under any of the following conditions; (a) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in

the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Labor Dispute.--For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed.

This disqualification shall not apply if it is shown that (a) he is not participating in, or financing, or directly interested in the labor dispute which caused the stoppage of work; (b) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in, or financing, or directly interested in the dispute; (c) if separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for this purpose, be considered a separate factory, establishment, or other premises.

(5) Receipt of Other Compensation.--For any week with respect to which he is receiving or has received remuneration in the form of: (a) remuneration instead of dismissal notice; (b) compensation for temporary partial disability under the workmen's compensation law of any State or under a similar law of the United States; (c) old-age benefits under Title II of the Social Security Act, as amended, or similar payments under any Act of Congress; provided, that if such benefits are less than the benefits which would otherwise be due under this law applicant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; (d) the foregoing paragraphs numbered (b) and (c) in this section are in effect only for the balance of the year 1945; (e) for any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of any other State or of the United States; provided, that if the appropriate agency of such other State or of the United States finally determines that he is not entitled to such unemployment benefits, this disqualification shall not apply.

(6) Detachment from Maritime Services.--For the two weeks immediately following detachment from any maritime services performed under shipping articles. This disqualification will be effective on and after January 1, 1946, the date that coverage is extended to "Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States."

(7) Benefit Rights under Military Service.--No benefit rights accruing to any individual prior to, or after, such individual's induction into a branch of the military or naval service, or any organization affiliated therewith, of the United States or of this State, shall be prejudiced by reason of the induction into such services or the duration of such service.

Where to Apply for Benefits.--Register at the local United States Employment Service Office immediately upon becoming unemployed.

PENNSYLVANIA

Source: Pennsylvania Unemployment Compensation Law (original act effective December 6, 1936; latest amendments effective June 1, 1945, and January 1, 1946).

Fishermen and Allied Workers Covered.--Fishermen performing services on Americal vessels, and allied workers are covered under the provisions of an amendment to the Pennsylvania Unemployment Compensation Law, approved May 29, 1945, and effective January 1, 1945. Prior to that time, they were not covered, according to a statement of February 12, 1945, signed by the Secretary of Labor and Industry, quoted in part, as follows:

"Fishermen are considered as 'officers or members of the crew'. . . and are, therefore, excluded from coverage . . . . this exclusion only applies to vessels operating 'on the navigable waters of the United States.' Navigable waters of the United States for this purpose is interpreted as waters which are navigable in fact and which by themselves or their connection with other waters form a continuous channel for commerce with foreign countries or among the States."

Employment Not Covered.--Services of: (a) casual labor not in the course of employer's trade or business; (b) an officer or member of the crew of a vessel not an American vessel; (c) family services; (d) service for an employer subject to an Act of Congress establishing an unemployment compensation system for maritime employees; (e) services for a fishermen's cooperative association exempt from income tax under Section 101 of the Federal Internal Revenue Code if (i) the remuneration paid to an individual for such service does not exceed $45 during a calendar quarter or (ii) such service is performed by a student who is enrolled and is regularly attending classes in a school, college, or university.

Employers Covered.--Employer of one or more employees for some portion of a day during calendar year, effective January 1, 1945.

Eligibility of Employees

(1) Minimum amount of earnings necessary - 30 times minimum weekly benefit amount.

(2) Waiting period - one week of unemployment before receiving benefits.

Payments

(1) Maximum and minimum weekly benefit payments - $20 is the maximum amount that any applicant may receive weekly, and $8 is the minimum weekly amount that may be received as unemployment benefits, less weekly wages after 1945 in excess of $3.

(2) Maximum number of weeks payable - 20 weeks.

Contributions

(1) Employers contribute from 1% to 2.7% of wages paid (not in excess of $3,000) to each employee. Rates are adjusted according to records of employment experience.

(2) Employees contribute no part of their earnings toward unemployment benefits.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Failure to Apply for or to Accept Suitable Work.--An employee shall be ineligible for compensation for any week in which his unemployment is due to a failure, without good cause, either to apply for suitable work at such time and in such manner as the department may prescribe, or to accept suitable work when offered to him by the employment office or any employer. Provided, that such employer simultaneously notifies the employment office of such offer.

"Suitable work" means all work which the employee is capable of performing. In determining whether or not any work is suitable for an individual, the department shall consider the following: (a) degree of risk involved to his health, safety, and morals; (b) physical fitness and prior training; (c) experience; (d) distance of the available work from his residence. The department shall also consider, among other factors: (a) the length of time he has been unemployed and the reason therefor; (b) the prospects for obtaining local work in his customary occupation; (c) his previous earnings; (d) the prevailing conditions of the labor market generally, and particularly in his usual trade or occupation; (e) prevailing wage rates in his usual trade or occupation; (f) the permanency of his residence.

Suitable work shall not apply where: (a) position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) wages, hours, or other conditions of work offered are substantially less than those prevailing for similar work

in locality; (c) as a condition of being employed, employee would be required to join a company union or to resign from, or refrain from joining any bona fide labor organization.

(2) Leaving Work Voluntarily.--An employee shall be ineligible for compensation for any week in which his unemployment is due to voluntarily leaving work without good cause. No employee shall be deemed to be ineligible under this section where: (a) as a condition of continuing in employment such employee would be required to join or remain a member of a company union, or to resign from or refrain from joining any bona fide labor organization; (b) to accept wages, hours, or conditions of employment not desired by a majority of the employees in the establishment or the occupation; (c) would be denied the right of collective bargaining under generally prevailing conditions.

(3) Receipt of Other Compensation.--An employee shall be ineligible for compensation for any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of any other State or of the United States. Provided that if the appropriate agency of such other State or of the United States finally determines that he is not entitled to such unemployment benefits, the disqualification shall not apply.

Applicants terminated from the Armed Forces who are eligible under an Act of Congress for payments by the United States with respect to unemployment of individuals who have completed a period of military service are also disqualified until they have exhausted their rights to such payments by the United States.

(4) Labor Dispute.--An employee shall be ineligible for compensation for any week in which his unemployment is due to a voluntary suspension of work resulting from an industrial dispute at the factory, establishment, or other premises at which he is or was last employed. This disqualification, however, shall only apply to any week of unemployment which, in whole or in part, includes any part of a period beginning with the day such suspension occurs and ending with: (a) the last day of the fourth calendar week immediately following the calendar week in which such suspension occurs; (b) the day on which such suspension was terminated, whichever is the earlier.

(5) Misconduct.--An employee shall be ineligible for compensation for any week in which his unemployment is due to his discharge or temporary suspension from work for wilfull misconduct connected with his work.

(6) Employment under Shipping Articles.--An employee shall be ineligible for compensation for any week which, in whole or in part, includes any part of the two week period which immediately follows each period of employment under Shipping Arti-

cles. The Shipping Articles are the "Articles of Agreement", or any other agreement under which officers or members of the crew are employed on the high seas and under which they are not entitled to final settlement of wages until the termination of the period of employment.

Where to Apply for Benefits.--Register at the local United States Employment Service Office immediately upon becoming unemployed.

## DELAWARE

Source: Delaware Unemployment Compensation Law (original act effective April 30, 1937; latest amendment effective April 18, 1945).

Fishermen and Allied Workers Covered.--These workers are covered under the Delaware Unemployment Compensation Law. However, a statement of January 8, 1945, signed by the Special Deputy Attorney General of Delaware states, in part, as follows:

". . . . the Unemployment Compensation Law of Delaware, both as to full-time and part-time (seasonal) employees, does not cover the fishing industry except insofar as a fisherman may be construed not to be officers or members of the crew of a vessel working upon navigable waters. . . . It would appear, however, that from my personal knowledge of what fishing industry there is in this State, most of them (fishermen) would be exempt from the operation of the Delaware law. I say this because . . . . I think that almost everyone on the boat is employed interchangeably as a crew member and fisherman."

Employment Not Covered.--Services of: (a) officers or members of the crew of a vessel on the navigable waters of the United States; (b) family services.

Employers Covered.--Those having one or more employees in each of 20 weeks in the current or preceding calendar year.

Eligibility of Employees

(1) Minimum amount of earnings necessary - 30 times weekly benefit amount; $200 if more than 75% of the wages are for seasonal employment in the first four of the last five completed calendar quarters (base period). Seasonal employment applies only to the first processing of agricultural products.
(2) Waiting period - one full week of unemployment before receiving benefits.

Payments

(1) Maximum and minimum weekly benefit payments - $18 is the maximum amount that any applicant may receive weekly, and

$7 is the minimum amount that may be received weekly as unemployment benefits less wages, if any, in excess of $2.

(2) Maximum number of weeks payable - the maximum number of weekly benefits that any applicant may receive is 22. If one quarter of base period wages is a lesser amount, that amount constitutes the maximum total benefit payment. In no case, however, is the maximum total benefit payment to be less than 11 times weekly benefit amount.

Contributions

(1) Employers contribute 0.5% to 3% of wages paid (not in excess of $3,000) to each employee. Rates of contributions will be adjusted by the Department according to their employment record.

(2) Employees contribute no part of their wages toward unemployment benefits.

Disqualifications for Benefits.--Applicants are disqualified in the following cases:

(1) Leaving Work Voluntarily.--If he leaves his job voluntarily without good cause.

(2) Discharged for Misconduct.--If he were discharged for deliberate misconduct in willful disregard for the employing unit's interest.

(3) Failure to Apply for or to Accept Suitable Work.--If he has failed without good cause either to apply for available suitable work when so directed by the employment office or the Commission or to accept suitable work when offered him. Such disqualification shall begin with the week in which the refusal occurred and shall continue for the duration of the period of unemployment during which such refusal occurred.

In determining whether or not any work is suitable, the Commission shall consider the following: (a) degree of risk involved to his health, safety, and morals; (b) physical fitness and prior training; (c) experience and prior earnings; (d) length of unemployment and prospects for securing local work in his customary occupation; (e) distance of the available work from his residence.

Regardless of any other provisions, no work shall be considered suitable and benefits shall not be denied to any otherwise eligible applicant for refusing to accept new work under the following conditions: (a) if the position is vacant due directly to a strike, lockout, or any other labor dispute; (b) if the wages, hours, or working conditions offered are substantially less favorable than those prevailing for similar work in the area; (c) if as a condition of being employed the applicant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) Labor Dispute.--For any week that the Commission finds that applicant's total or partial unemployment is due to a work stoppage which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed.

(5) Receipt of Other Compensation.--(a) For any week with respect to which or a part of which he has received or is seeking unemployment benefits under an unemployment compensation law of another State or of the United States if and until it is determined that he is not entitled to such unemployment benefits; (b) for any week with respect to which he is receiving or has received money in the form of a primary insurance benefit under Title II of the Social Security Act, as amended, or similar payments under any Act of Congress unless the amount of such payment for any week is less than the weekly benefit that would otherwise be due under the unemployment compensation act in which case the applicant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such payment.

(6) False Statement.--Any individual who has made a false statement to the Commission for the purpose of receiving benefits shall be disqualified for the period of one year from the date the false statement was made; he may also be subjected to other penalties by court action.

Where to Apply for Benefits.--Applicant should apply to the United States Employment Service Office immediately upon becoming unemployed.